

# UNITY LUTHERAN CHRISTIAN ELEMENTARY SCHOOL

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March 5, 2015

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street SW  
Washington, DC 20554  
VIA FCC ELECTRONIC COMMENT FILING SYSTEM

Re **CC Docket No. 02-6**  
Petition for Waiver  
FCC Form 471 No. 989946, 991958  
Applicant: Unity Lutheran Christian Elementary School, BEN 16057177

Dear Ms. Dortch,

With this letter Unity Lutheran Christian Elementary School ("Unity Lutheran") requests a waiver of the FCC Form 471 filing window deadline for Funding Year 2014 under the schools and libraries universal service support mechanism (E-Rate).

## **Background**

Unity Lutheran is dedicated to providing a secular and religious education of the highest quality for our 198 students. We very much depend on the E-Rate program to help fund the communications technology we need to educate the next generation and help them prepare to be successful and contributing adults.

We do our best to comply with the rules of the E-Rate program, but in this case we may have fallen short in finishing the application and certification process on time.

## **Analysis**

Unity Lutheran filed its FCC Form 471s on 3/28/2014, within 14 days of the filing window deadline. To the best of our knowledge, our E-rate funding application is otherwise in full compliance with all FCC rules and USAC requirements.

In *Academy for Academic Excellence*<sup>1</sup>, the Wireline Competitions Bureau ("Bureau") found that in cases where a delayed Form 471 filing came as a result of circumstances beyond the control of the applicant, the complete rejection of these applications was not warranted, given that the violation at issue was procedural, not substantive. The

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<sup>1</sup> See *Academy for Academic Excellence Order*, 22 FCC Rcd 4747 (2007).

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Bureau found further that rigid adherence to filing procedures would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

In *Acorn Public Library District*<sup>2</sup>, the Bureau found that a delayed Form 471 filing of not more than 14 days after the filing window deadline was not likely to impede USAC's ability to administer the E-Rate program. The Bureau found that the violation at issue was procedural, not substantive, and the Bureau found further that complete rejection of these applications is not warranted. The Bureau also found that (in the absence of any evidence of waste, fraud, or abuse, misuse of funds, or a failure to adhere to core program requirements and) because the FCC Form 471 was filed within 14 days after the filing window deadline, it was in the public interest to waive the FCC Form 471 deadline.

And in *Academy of Math and Science*<sup>3</sup>, the Federal Communications Commission reiterated that filing of Form 471 late but within 14 days of the filing window deadline is a special circumstance which justifies the grant of a waiver. The Bureau has applied this precedent in several subsequent orders<sup>4</sup>.

We also note that although a rule change<sup>5</sup> will take effect on March 6 which will set a time limit on when waiver petitions can be submitted, that amendment is not yet in effect.

Finally, we note that denial of our funding request would impose severe hardship upon Unity Lutheran, and the effect of such denial would be a profound adverse impact upon the educational services we provide for our students. The consequences of a denial of funding would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

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<sup>2</sup> See *Acorn Public Library District Order*, 23 FCC Rcd 15474 (2008).

<sup>3</sup> See *Academy of Math and Science Order*, 25 FCC Rcd 9256 (2010).

<sup>4</sup> See *Argos Public Library Order*, 25 FCC Rcd 16109 (2010); *Al-Noor School Order*, 26 FCC Rcd 5792 (2011); *Beaver Area Memorial Library Order*, 26 FCC Rcd 10317 (2011); *All Saints Elementary School Order*, 26 FCC Rcd 13107 (2011); *Bais Chaya Mushka Order*, 27 FCC Rcd 195 (2012); *Anderson Elementary School Order*, 27 FCC Rcd 5319 (2012); *Acadia Parish School Board Head Start Program Order*, 27 FCC Rcd 11033 (2012); *Abbotsford School District Order*, 27 FCC Rcd 15299 (2012); *A.C.E. Charter High School Order*, 27 FCC Rcd 15907 (2012); *Ashtabula Area City Schools Order*, 28 FCC Rcd 4051 (2013); *Academy of Accelerated Learning Order*, 28 FCC Rcd 6947 (2013); *Allenstown Public Library Order*, 28 FCC Rcd 11198 (2013); *Albert Wisner Public Library Order*, 28 FCC Rcd 16900 (2013).

<sup>5</sup> Amendment to 47 CFR §54.720(a) published in the *Federal Register* at 80 FR 5991 on 2/4/2015

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**Request for Waiver**

For the reasons stated in this letter, Unity Lutheran respectfully requests that the Federal Communications Commission grant a waiver of the FCC Form 471 filing window deadline for Unity Lutheran's Funding Year 2014 E-Rate funding application.

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Paul Miller  
Director